

*Town of North Andover
ZONING BOARD OF APPEALS*

*Albert P. Manzi III, Esq. Chairman
Ellen P. McIntyre, Vice-Chairman
Richard J. Byers, Esq. Clerk
D. Paul Koch Jr. Esq.*



*Associate Member
Michael P. Liporto
Tyler Speck
Zoning Enforcement Officer
Gerald A. Brown*

*Approved
Nov
13,
2012*

DRAFT MINUTES

**Tuesday, September 27, 2012 at 7:30 PM
Town Hall 120 Main Street, North Andover, Massachusetts**

**Members present: Ellen McIntyre, Richard Byers, Paul Koch
Associate Member: Michael Liporto and Tyler Speck
Also in attendance: Zoning Enforcement Officer: Gerald Brown
Excused absence: Albert Manzi III, Esq.**

Ellen McIntyre will be the Acting Chairman at tonight's meeting.

McIntyre called the meeting to order at 7:34

McIntyre stated that we have a five (5)-member board, so all of the Board members, tonight will be voting.

Pledge of Allegiance

McIntyre stated that we will hear 41 Second Street first.

Continued Public Hearing

A Special Permit in an R-4 Zoning District, applicant Gene Espinola, 41 Second Street (Map 30, Parcel 35)

Atty. Domenic Scalise walked over to the podium stating that he is here on behalf of his client, Gene Espinola.

Scalise also wanted to take this opportunity to thank the Board for having this Special meeting.

Scalise summarized to the Board his applicant's request to raze the existing house and build 3 units. He also stated at the last meeting the abutters expressed many concerns and issues regarding the amount of units, parking and where these parking spots were configured onto the lot and also their concerns on landscaping.

Scalise stated that his client has downsized from 4 units to 3 units.

He stated that no Variance is required here, since they meet all dimensional requirements. All that is needed is a Special Permit.

Scalise talked of the parking concerns. Parking will be on the side. The front of the units will be open and no cars will park in front, giving the units a better appearance.

A landscaping plan was submitted and discussed by Scalise.

Scalise also wanted to mention that this lot is larger than what is required for an R-4 District.

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Scalise submitted a copy of the landscape plan to each Board member. The landscape plan was prepared by Weinmayr/Jay Associates, INC., Landscape Architects, dated June 6, 2012.

Byers asked why the plan showed 9 parking spots, McLeod stated that it was an error and should be 8 parking spots.

McIntyre asked a question of the Dogwood tree that were on the landscaping plan and if the tree was actually there, or was it proposed. McLeod responded that it was proposed.

Scalise also passed around a sheet of the neighborhood representing the various homes, multi, and single homes in the area. Scalise also wanted to mention that the home that stands there now is in very poor condition. Scalise also wanted to mention that the Historic Commission reviewed this house and found no historic value.

Scalise also wanted to point out that building less than 3 units will not be financially viable for his client.

William McLeod, Engineer for the applicant discussed the new proposed parking in detail to the Board.

McLeod also stated that 2 spots have been dedicated for each unit, plus two extra parking spots for visitors. In total there will be 8 parking spots. All these spots will be located on the side.

Lisa Loosigan, of 42 Second Street stated that she had not seen the new plan yet and wanted a better explanation regarding egress and overall height of the units and parking.

McLeod responded to her question stating that the each parking spot will be 9x8, with 2 spots for each unit as well as an additional 2 spots for visitors. He explained the egress and how cars would get in and out of their parking spots.

McIntyre asked of snow removal and where they would put the snow. McLeod, pointed to where the snow would go on the plan.

McLeod addressed the height of the building and stated that it is 34.6 feet.

Gerald Brown, Zoning Enforcement Officer, explained how they figure in the height of a building, and then stated that it is in compliance according to the Zoning Bylaws Maximum of 35' for Height.

Manuel Salinas of 52-53 Second Street asked of parking and landscaping as well, and wanted to have a better look at both the landscaping and the parking on the plans that were displayed. He also wanted to point out that he was happy to see that the project has been downsized.

Koch asked of the fence that was proposed.

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McIntyre wanted all the abutters to know that the applicant still needs to go in front of the Planning Board, since they require 5 or more parking spots.

Byers liked the changes made, stating it is much improved from when it first came in. It is also better for the neighbors too.

Brown wanted the board to know that it will be in full compliance with the Special Permit and will also be fully sprinkled. Brown also reiterated that it still needs to go in front of the Planning Board.

Byers made a motion to close this public hearing

Koch second the motion

Those voting in favor to close this hearing for 41 Second Street were McIntyre, Byers, Koch, Liporto and Speck.

5-0: all were in favor.

Byers made a motion to **Grant the Special Permit** from Section 4, Buildings and uses permitted, Section 4.122, Residence 4 District, Section 4.122.14.C, Residential Dwellings, Section 4.122.14.D, Multi Family Conversion and Section 4.122.14.D.b. to construct a 3-unit family in an R-4 Zoning District. Byers also referenced all the maps, plans and associated dates that were in front of him and also who prepared these maps and plans.

With the condition that according to 8.3 of the Zoning Bylaws, Site Plan Review, that the applicant goes to the Planning Board for approval (regarding the 5 or more additional parking spots).

Koch second the motion to **Grant the Special Permit**.

Those voting in favor to **Grant the special Permit** for 41 Second Street were McIntyre, Byers, Koch, Liporto and Speck.

5-0: all were in favor.

McIntyre stated that we will move onto the last Continued Hearing.

Special Permit and Variance R-4 Zoning District, Allen E. Cusica, 22 Upland Street (Map 67, Parcel 69)

Atty. Scalise is representing his client, Allen E. Cusica. His Client would like to raze the existing two (2) family structures along with the garages and proposes to construct a new two (2)-family. He stated his client needs Variances and a Special Permit. Scalise discussed to the Board what has already been presented to the Board at past meetings.

Scalise stated that his client is requesting a Special Permit for a two (2) family and Variances for side setbacks.

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Scalise went on to say that as of right now that these two (2) homes that are very close to one another. The proposed plan will not have the homes as close. The new structure will allow for more room than what exist today.

Scalise also talked of the deed that was raised during one of the hearings; Scalise provided letters to the board to provide any of the concerns that were discussed at the last hearings.

Scalise talked of the two letters that were submitted to the Board from Tim Willet, Operations Manager for North Andover Public Works, dated July 26, 2012. These two letters were regarding water and sewer lines for 22 Upland Street.

Also included, was a service record with a drawing (field Card) from Columbia Gas, showing the gas line to locus property from Upland Street, dated June 22, 1963.

Also a last letter was from National Grid, dated 27 June 2012. This letter explained location of electric service to 22 Upland Street.

Scalise also stated that the parcel information on the Assessor's Report Card specifications for this property shows a "use-code" of 104, which means a multi family.

Scalise showed pictures of the existing home, including the driveway and garages as well.

McIntyre questioned if the garage/shed would be coming down. Scalise responded that they will come down.

Scalise talked of another issue that was raised, which was drainage issue and stated that McLeod will discuss this issue.

McIntyre asked of the driveway easement. Scalise talked of the deed and right of way that is only 5 feet in width for both Lot A and Lot B. Also of the utilities that no longer exist in the garage/shed that created the deed originally, for the use of utilities.

Byers commented on just a 5 foot easement. Scalise stated he did not think it was a driveway, but more of a walkway, since a car could not fit through this easement.

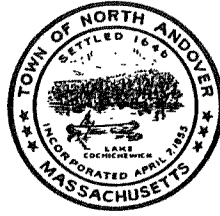
Daniel Noone, a resident located at 12 Upland Street was asked questions from the Board regarding his lot line and fence. Noone answered that the garage abuts his property. He then asked the Board questions regarding the parking space configuration, green space, water runoff, utility pole and if their would be another pole, and fire hydrant, and how it was going to be addressed.

McLeod also explained the runoff and how less impervious coverage which would significantly help the water runoff for the direct abutters.

Brown spoke up regarding adding another pole (question by Noone) and that you can not hold the applicant responsible if another pole was added, since it is up to the utility companies. The town has no jurisdiction over National Grid.

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Brown also stated that the Conservation Department and DPW need to look at this as well before any Building Permit can be given. Brown stated that it is part of the Form-U process.

McIntyre asked McLeod of the frontage and he stated that the frontage is a pre-existing non conforming lot.

Brown, Scalise and McLeod explained the pre-existing non conforming frontage to the Board.

Byers asked of the Special Permit since it was already a two family and why would they need a Special Permit. Brown stated they need the Special Permit, because they are tearing down the original 2-family structure and building a new one.

McLeod explained the configuration of the parking and the reasons why it was set up that way.

George Robertson, of 95 High Street had concerns with the drainage and was concerned of water coming into his basement. He also talked of the 3 foot retaining wall.

Robertson stated that two months ago he talked to the applicant, Allen Cuscia, regarding the retaining wall and the drainage and what he planed on doing. He also talked of the 3 foot drop from the properties. He wanted to show a short video on his phone of his concerns to the Board.

McIntyre asked if he had any issues with water coming into his home or cellar. Stating many years ago he had an issue when we got 11 inches of rain.

Roberson felt that he may have issues now with the change of structure to the 2-Family.

Roberson showed the video on his phone to the Board and McLeod.

Robertson stated that his insurance would not cover him if he got water in his cellar and that is why he is concerned.

McLeod submitted pictures to the Board of what Robertson was showing on the video from his phone. McLeod reiterated that there will be less impervious area meaning that they will have less water.

Liporto asked if there will be a change of elevation, McLeod stated that their will not be a change of elevation.

McIntyre asked if there will be any gutters on this home, McLeod stated no. McIntyre asked of the retaining wall. McLeod responded that the retaining wall will remain.

Byers asked of gutters and down spots. McLeod stated the rain/water would be too concentrated in one area if those were included in the plans.

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The Baez's, of 99 High Street had concerns regarding the teardown of the property. He wanted proper measures and precautions to be taken when the house comes down. He had concerns with the structure coming down safely, but had no objection to the project.

McIntyre stated that is where we have to put our faith in our Building Inspector, Gerald Brown that he will oversee it, to have it done right.

Brown mentioned that the Town Engineer would also get involved in the teardown.

Also Baez talked of the underground tunnels and passages on the property and also talked of the precautions to protect them as well.

Baez was concerned with the 5 foot easement, and stated that they use more than 5 feet for a road to their driveway to get in and out. McIntyre stated it will not be used as a road/driveway, since it is only a 5 foot easement.

McLeod stated that the easement will not exceed over the 5 foot width.

Koch asked what the 5 foot easement will be now, McLeod responded back stating that it is paved now and will stay paved.

Daniel Noone walked over to the podium for the last time stating that he wants to leave tonight on a positive note, stating that he thinks this is a good project for the neighborhood, given what exist now.

Byers made a motion to close the public hearing

Koch second the motion.

Those voting to close the hearing for 22 Upland Street were McIntyre, Byers, Koch, Liporto and Speck. 5-0.

Byers made a motion to **Grant the Special Permit** from Sections 9 and Sections 4.122, 4.122.14 and 4.122.14 A.b, to demolish an existing 2 family dwelling and garages, and construct a new two family dwelling in an R-4 District at 22 Upland Street. Byers referenced all the plans, maps and drawings in front of him along with the dates.

Koch second the motion

All were in favor to **Grant the Special Permit**: Byers, Koch, Liporto, and Speck.

Not in favor to Grant the Special Permit: McIntyre

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Byers made a motion to **Grant the Variances** for side set backs, left side setback 7 feet and the right side setback is 1 foot. Byers referenced all the plans, maps and drawings in front of him along with the dates.

Koch second the motion

All were in favor to **Grant the Variance**: Byers, Koch, Liporto, and Speck.

Not in favor to Grant the Variance: McIntyre

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McIntyre wanted to take a moment to thank Tyler Speck for his service as a Board member and wish him well and also that he will be missed, Tyler is moving to New Hampshire and he will no longer be a member of our Board.

Byers made a motion to adjourn

Koch Second the motion

Those voting in favor to adjourn, McIntyre, Byers, Koch, Liporto and Speck.

All were in favor, 5-0.

Adjournment: 9:12